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9
10 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4246

13 **CONCHA ZARAGOZA**
13517 Estelle Street
14 Corona, CA 92879

15 **Pharmacy Technician Registration No. TCH 66515**
Respondent.

A C C U S A T I O N

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about March 10, 2006, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 66515 to Concha Zaragoza (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on June 30, 2013, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code (Code) unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

5. Section 4300, subdivision (a), of the Code states that every license issued may be suspended or revoked.

STATUTORY PROVISIONS

6. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

7. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

• • • •

(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

• • • •

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

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8. Health & Safety Code section 11359 states:

Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished by imprisonment pursuant to subdivision (h) of section 1170 of the Penal Code.

COST RECOVERY

9. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUG

10. Marijuana is a Schedule I controlled substance as designated by Health and Safety Code section 11054, subdivision (d)(13).

FIRST CAUSE FOR DISCIPLINE

(Unauthorized Possession of Marijuana for Sale)

11. Respondent has subjected her license to discipline under Code section 4301, subdivision (j), in that she violated California Health & Safety Code (HSC) section 11359 when she possessed marijuana for purposes of sale. The circumstances are as follows.

12. On or about June 3, 2010, Sheriff's Deputies from the County of Los Angeles Sheriff's Department responded to an anonymous tip that marijuana was being sold at an organic food co-op business licensed only to sell food, located at 8907 Valley Boulevard in Rosemead, California. The Deputies were able to gain entry through the locked door to the business by someone inside unlocking the door. As soon as the Deputies got inside the establishment, they immediately smelled a strong odor of marijuana. In plain view on a counter were 14 large clear labeled plastic containers containing marijuana. They also found rolled marijuana cigarettes, 14 plastic containers of marijuana brownies, numerous glass narcotics pipes, two dry erase boards depicting various types of marijuana and their prices by various quantities, numerous bongs, and a metal file cabinet containing miscellaneous customer files.

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1 13. Respondent was among the three persons found inside the business premises. She
2 stated that she was a volunteer at the store. Files found during the search indicate that she was
3 also a customer. When the three were arrested and transported to Temple Station, two more
4 persons arrived at the business premises. One, who was identified as the manager, stated that the
5 three arrested earlier, including Respondent, were working at the premises.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Violation of Drug Laws)**

8 14. Respondent has subjected her license to discipline under Code section 4301,
9 subdivision (o), in that she possessed the controlled substance, marijuana, without a prescription,
10 in violation of Code section 4060, as detailed in paragraphs 12 and 13, above, which are
11 incorporated herein by reference.

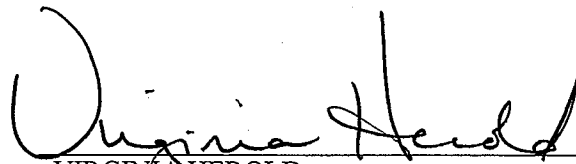
12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Pharmacy issue a decision:

- 15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 66515,
16 issued to Concha Zaragoza;
- 17 2. Ordering Concha Zaragoza to pay the Board of Pharmacy the reasonable costs of
18 the investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22
23 DATED: _____

6/15/12



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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